



6-20-03

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.



299986

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**SE-5J**

Mr. David Lee Harper, Sr.  
President  
DLH Plating, LLC  
dba Empigard Plating Company  
2801 Grand Ave.  
Cleveland, Ohio 44104

Mr. David Lee Harper  
3862 East 189 Street  
Cleveland, OH 44122

RE: DLH Plating Site, 2801 Grand Ave., Cleveland, Ohio  
General Notice of Potential Liability

Dear Sir:

The United States Environmental Protection Agency (U.S. EPA) has documented the release or threatened release of hazardous substances, pollutants and contaminants at the above referenced Site, and is planning to spend public funds to control and investigate these releases. This action will be taken by U.S. EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601 et seq., ("CERCLA") as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) ("SARA"), unless U.S. EPA determines that such action will be done properly by a responsible party. Responsible parties under CERCLA include the current and former owners and operators, and persons who generated the hazardous substances or were involved in transport, treatment, or disposal of them at the Site. Under Section 107(a) of CERCLA, 42 U.S.C. §9607(a), where the Agency uses public funds to achieve the cleanup of the hazardous substances, responsible parties are liable for all costs associated with the removal or remedial action and all other necessary costs incurred in cleaning up the Site, including investigation, planning and enforcement.

The U.S. EPA is currently planning to conduct the following actions at the above referenced Site.

1. Develop and implement a site-specific Health and Safety Plan, including an Air Monitoring Plan, and a Site Emergency Contingency Plan;
2. Develop and implement a Site Security Plan;

3. Inventory and perform hazard characterization on all substances contained in containers, drums, vats, pits, drains, piping and tanks;
4. Consolidate and package all hazardous substances, pollutants and contaminants for transportation and off-site disposal;
5. Dismantle, decontaminate, and scrap process equipment, tanks, vats, pits, drains, piping and building components associated with the product process areas;
6. Transport and dispose of all characterized or identified hazardous substances, pollutants, wastes, or contaminants to a RCRA/CERCLA-approved disposal facility in accordance with U.S. EPA's Off-Site Rule (40 CFR § 300.440).

U.S. EPA has received information that you and your organization may have owned or operated or generated or transported hazardous substances that were disposed of at the Site. By this letter, U.S. EPA notifies you of your potential liability with regard to this matter and encourages you, as a potentially responsible party, to reimburse U.S. EPA for costs incurred to date and to voluntarily perform or finance the response activities that U.S. EPA has determined or will determine are required at the Site. U.S. EPA is willing to discuss with you the entry of an appropriate administrative consent order under which you would perform or finance response activities and reimburse U.S. EPA for its costs. If a consent order cannot be promptly concluded, U.S. EPA may issue a unilateral order under Section 106 of CERCLA, requiring you to perform specified work. Under Sections 106 and 107 of CERCLA, you may be liable for reimbursement of U.S. EPA's costs, for statutory penalties, and for treble damages for noncompliance with such an order. If you are a qualified small business, enclosed is a U.S. EPA Small Business Regulatory Enforcement Fairness Act information sheet which may be helpful if you are subject to an U.S. EPA enforcement action.

As a potentially responsible party, you should notify U.S. EPA in writing within seven (7) days of receipt of this letter of your willingness to perform or finance the activities described above. If U.S. EPA does not receive a timely response, U.S. EPA will assume that you and your organization does not wish to negotiate a resolution of your potential responsibility in connection with the Site and that you and your organization have declined any involvement in performing the response activities.

Your letter should indicate the appropriate name, address, and telephone number for further contact with you. If you are already involved in discussions with state or local authorities, engaged in voluntary cleanup action or involved in a lawsuit regarding this Site, you should continue such activities as you see fit. This letter is not intended to advise you or direct you to restrict or discontinue any such activities; however, you are advised to report the status of those discussions or actions in your response to this letter and to provide a copy of your response to any other parties involved in those discussions or actions.

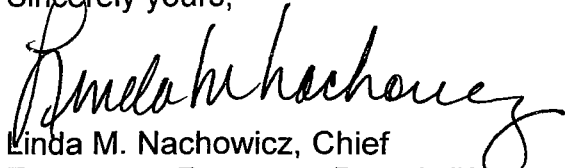
As a potentially responsible party, you should notify U.S. EPA in writing within seven (7) days of receipt of this letter of your willingness to perform or finance the activities described above and to reimburse U.S. EPA for its costs. Your response should be sent to:

William Ryczek  
U.S. EPA - Region 5  
Emergency Enforcement Services Section SE-5J  
77 West Jackson Boulevard  
Chicago, Illinois 60604

If you need further information regarding this letter, you may contact William Ryczek, Emergency Enforcement & Support Section, at (312) 886-7184. Direct any legal questions to Nola Hicks, of the Office of Regional Counsel at (312) 886-7949.

Due to the nature of the problem at this Site and the attendant legal ramifications, U.S. EPA strongly encourages you to submit a written response within the time frames specified herein. We hope you will give this matter your immediate attention.

Sincerely yours,



Linda M. Nachowicz, Chief  
Emergency Response Branch #2

[Enclosure] (SBREFA information sheet)

## Supplemental Information for Small Businesses Subject to an U.S. EPA Enforcement Action

The United States Environmental Protection Agency (EPA) offers small businesses a wide variety of compliance assistance resources and tools designed to assist businesses to comply with federal and state environmental laws. These resources can help businesses understand their obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

### Websites

EPA offers a great deal of compliance assistance information and materials for small businesses on the following Websites, available through public libraries:

⇒ <a href="http://www.epa.gov">www.epa.gov</a>	<i>EPA's Home Page</i>
⇒ <a href="http://www.smallbiz-enviroweb.org">www.smallbiz-enviroweb.org</a>	<i>EPA's Small Business Home Page</i>
⇒ <a href="http://www.smallbiz-enviroweb.org/state.html">www.smallbiz-enviroweb.org/state.html</a>	<i>List of State Contacts</i>
⇒ <a href="http://www.epa.gov/ttn/sbap">www.epa.gov/ttn/sbap</a>	<i>Small Business Assistance Programs</i>
⇒ <a href="http://www.epa.gov/oeca/polguid/index.html">www.epa.gov/oeca/polguid/index.html</a>	<i>Enforcement Policy and Guidance</i>
⇒ <a href="http://www.epa.gov/oeca/smbusi.html">www.epa.gov/oeca/smbusi.html</a>	<i>Small Business Policy</i>
⇒ <a href="http://www.epa.gov/oeca/oc">www.epa.gov/oeca/oc</a>	<i>Compliance Assistance Home Page</i>
⇒ <a href="http://www.epa.gov/oeca/ccsmd/commpull.html">www.epa.gov/oeca/ccsmd/commpull.html</a>	<i>Small Businesses and Commercial</i>
	<i>Se</i>
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	<i>ces</i>

⇒ <a href="http://www.epa.gov/oeca/ccsmd/mun.html">www.epa.gov/oeca/ccsmd/mun.html</a>	<i>Small Communities Policy</i>
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### Hotlines

EPA sponsors approximately 89 hotlines and clearinghouses that provide a free and convenient avenues to obtain assistance with environmental requirements. The Small Business Ombudsman Hotline can provide you with a list of all the hot lines and assist you with determining which hotline will best meet your needs. Key hotlines that may be of interest to you include:

⇒ Small Business Ombudsman.....	(800) 368-5888
⇒ RCRA/UST/CERCLA Hotline.....	(800) 424-9346
⇒ Toxics Substances and Asbestos Information.....	(202) 554-1404
⇒ Safe Drinking Water.....	(800) 426-4791
⇒ Stratospheric Ozone/CFC Information.....	(800) 296-1996
⇒ Clean Air Technical Center.....	(919) 541-0800
⇒ Wetlands Hotline.....	(800) 832-7828

### Compliance Assistance Centers

EPA has established national compliance assistance centers, in partnership with industry, academic institutions, and other federal and state agencies, that provide on line and fax back assistance services in the following sectors heavily populated with small businesses:

## Supplemental Information for Small Businesses Subject to an U.S. EPA Enforcement Action

- ⇒ Metal Finishing ([www.nmfrc.org](http://www.nmfrc.org))
- ⇒ Printing (1-888-USPNEAC or [www.pneac.org](http://www.pneac.org))
- ⇒ Automotive (1-888-GRN-LINK or [www.ccar-greenlink.org](http://www.ccar-greenlink.org))
- ⇒ Agriculture (1-888-663-2155 or [www.epa.gov/oeca/ag](http://www.epa.gov/oeca/ag))
- ⇒ Printed Wiring Board Manufacturing ([www.pwbr.org](http://www.pwbr.org))
- ⇒ The Chemical Industry (Contact: Emily Chow 202-564-7071)
- ⇒ The Transportation Industry (<http://www.transource.org>)
- ⇒ The Paints and Coatings Center (Contact: Scott Throwe 202-564-7013)
- ⇒ Local Governments (Contact: John Dombrowski, 202-564-7036)

### State Agencies

Many state agencies have established compliance assistance programs that provide on- site as well as other types of assistance. Please contact your local state environmental agency for more information. EPA's Small Business Ombudsman can provide you with State Agency contacts by calling (800)-368-5888.

### Compliance Incentive Policies

EPA's Small Business Policy and Small Communities Policy are intended to promote environmental compliance among small businesses by providing incentives such as penalty waivers and reductions for participation in compliance assistance programs, and encouraging voluntary disclosure and prompt correction of violations. These policies can not be applied to an enforcement action such as this one that has already been initiated, but are noted for future reference. Contact Karin Leff (202-564-7068) for information on the Small Business Policy and Ken Harmon (202-564-7049) for information on the Small Communities Policy.

In order to improve your understanding of and compliance with environmental regulations and avoid the need for future enforcement actions, we encourage you to take advantage of these tools. ***However, please note that any decision to seek compliance assistance at this time does not relieve you of your obligation to answer EPA's administrative complaint in a timely manner, does not create any new rights or defenses, and will not affect EPA's decision to pursue this enforcement action.***

The Small Business and Agriculture Regulatory Enforcement Ombudsman and ten Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually rate each agency's responsiveness to small businesses. If you believe that you fall within the Small Business Administration's definition of a small business (based on your SIC designation, number of employees or annual receipts) and wish to comment on federal enforcement and compliance activities, call 1-888-REG-FAIR (1-888-734-3247). ***However, participation in this program does not relieve you of your obligation to respond to an EPA request, administrative or civil complaint or other enforcement action in a timely manner nor create any new rights or defenses under law. In order to preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action.***

**Supplemental Information for Small Businesses**  
**Subject to an U.S. EPA Enforcement Action**

Dissemination of this information sheet does not constitute an admission or determination by EPA that your business, organization or governmental jurisdiction is a small entity as defined by SBREFA or related provisions nor does it create any new rights or defenses under law.